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PUC PROJECT NO. 51812



ISSUES RELATED TO THE STATE OF §
DISASTER FOR THE FEBRUARY 2021 §
WINTER WEATHER EVENT §

PUBLIC UTILITY COMMISSION
OF TEXAS

RESIDENTIAL CONSUMER REQUEST FOR EMERGENCY ACTION

Texas Legal Services Center (TLSC) and AARP Texas file this Request for Emergency Action to provide immediate relief to residential electricity consumers in Texas who suffered during the February 2021 Winter Weather Event. Millions were left without heat and power for days and millions more are being hit with unaffordable electric bills. This happened because of the failure of the electric market's reliance on price to ensure reliability; the failure of the PUC to protect consumers; and the failure of ERCOT to recognize and plan for severe weather across the state. We are asking the PUC to prioritize relief for Texas consumers over relief for Retail Electric Providers (REPs).

On February 21, 2021 Governor Greg Abbott filed a Proclamation declaring a state of disaster in all 254 Texas counties. Further, on February 15, 2021, the Electric Reliability Council of Texas, Inc. (ERCOT) declared its highest state of emergency, an Emergency Energy Alert Level 3 (EEA3), due to exceptionally high electric demand exceeding supply. The ERCOT System remained in EEA3, and firm load shed continued, for a sustained period of time in light of the duration of the extreme weather event. At least 4 million residential customers were without power and heat for days during sustained sub-freezing temperatures.

Families, many with elderly people and infants in their households, endured extreme cold with no heat. At least 70 people died and an estimated \$18 billion in damages have been

incurred because of bursting pipes and property damage. Those customers who did not suffer outages are now hit with unaffordable electric bills.

Some families who chose indexed or variable priced electricity plans in the competitive retail market were billed thousands of dollars for their electricity use during the storm. High usage driven by freezing temperatures will result in bill shock for millions of others. Adding insult to injury families are likely to experience confusion and volatile electricity prices as they are transferred to a Provider of Last Resort (POLR) if their REP defaults on its billings from ERCOT and goes out of business. The POLR rate includes a component based on ERCOT's "Real-Time Settlement Point Prices", in other words, moving a customer to POLR is like moving customers from Griddy to a Griddy-like rate.

The hearings held in the House State Affairs and Energy Resources Committees and the Senate Business and Commerce Committee to investigate the electricity disaster were a testament to the human suffering caused by the event. The dangers of allowing the marketing of variable or indexed price plans to residential customers are described in detail by the Texas Attorney General in, *The State of Texas v. Griddy Energy LLC* filed on March 1, 2021 in Harris County 133rd Civil District Court, Cause #202111518-7 (see especially statements in footnote 1 of the Attorney General's Original Petition).

While permanent changes are needed to improve the overall market structure and to enhance customer protections to prevent a repeat of this winter storm event, there are steps we ask the Commission to take now to provide needed immediate relief to residential electricity consumers. It is in the best interests of residential consumers harmed by the storm for the Commission to take the following immediate actions:

1. Prohibit REPs from selling electricity under an indexed or variable price plan. All offers to prospective residential customers should be immediately suspended and all residential customers currently on such plans should be moved to the lowest priced fixed rate plan offered by the REP.
2. Extend the prohibition on variable and indexed pricing to the POLR. Require REPs serving as the Voluntary POLR to charge the mass transition customers on a month-to-month basis at the price of the fixed-rate plan that a majority of the REP's customers already take. Open a docket to reform the POLR rate.
3. Prohibit REPs from charging contract termination fees to residential customers who switch REPs.
4. Prohibit REPs from placing switch-holds on the customers who enter into deferred payment plans during or as a result of the February 2021 Winter Weather Event.
5. Protect customers from debt collectors. When a REP defaults in the ERCOT market due to the February 2021 Winter Weather Event and the cost of its debt is uplifted to ERCOT, prohibit the REP from selling its bad debt accounts to collection agencies and filing adverse credit reports on residential customers.

The Commission has authority to order these needed protections. See the February 12, 2021 Proclamation of the Governor filed as item Number 2 in Docket 51812. The Public Utility Regulatory Act (PURA) provides specific protections for residential customers. Section 39.106 mandates that the Commission designate a Provider of Last Resort to offer a standard service package **“at a fixed, nondiscountable rate approved by the commission.”** Section 39.01

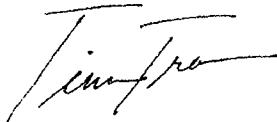
requires that the Commission implement retail customer protections “to safe, reliable, and **reasonably priced electricity...**”

PURA Chapter 17 provides additional requirements for the Commission to implement customer protections. Again, the Commission is charged to provide POLR service as a “standard service package.” POLR pricing that is variable in price or that is only available at rates that far exceed market prices fail to meet that mandate. Similarly, Chapter 17 in other contexts acknowledges the potential impact of adverse credit reports on the ability of consumers to obtain power at affordable prices. Thus, if REP’s sell their bad debt that resulted from the February 2021 Winter Weather Event customers will be likely be unable to secure low-interest loans for home repairs, and other essential services. Similarly, Chapter 17.004(a)(6) and Section 39.101(a)(2) both mandate that the Commission ensure that customers be protected of their “privacy of customer consumption and **credit information.**” If a REP were to transfer bad debt incurred during the weather emergency to a debt collector or credit reporting agency then on its face the affected customers’ information would no longer be protected. Each of the five consumer recommendations may be implemented now by the Commission through rule waivers and through Commission initiated emergency rules.

While the immediate danger of outages from this event may be past, substantial harm to residential consumers will persist, absent action. High and volatile bills coupled with confusing and potentially expensive switches to POLR on a variable rate are realities for already struggling Texans. Customers were encouraged to change plans but are being stymied by the Commission’s switch-hold rule or further shackled by high contract termination fees. This electricity emergency was in no way the fault of residential electricity customers, yet they’ve

already paid an untold price. Immediate action on the items above will provide the first threads of a safety net and give consumers more tools to help themselves. We await your decision to put these emergency provisions in place this week.

Respectfully submitted



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